

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SOUTH CENTRAL BELL TELEPHONE COMPANY'S)	
SPECIAL SERVICE CONTRACT ARRANGEMENT FOR)	CASE NO. 90-140
DIGITAL ESSX SERVICE WITH ALLIANT HEALTH)	
SYSTEM)	

O R D E R

On May 7, 1990, South Central Bell Telephone Company ("South Central Bell") filed a proposed special contract for the provision of digital ESSX service to Alliant Health System of Louisville ("Alliant"). On June 4, 1990, the Commission suspended the proposed special contract until November 6, 1990 to conduct further investigation of its reasonableness.

Case Background

On May 22, 1990, AT&T Communications of the South Central States, Inc. ("AT&T") filed a motion for full intervention. South Central Bell opposed AT&T's motion, citing the competitive nature of the service offering and noting that South Central Bell had won Alliant's telecommunications business through competitive bidding with AT&T. South Central Bell was confident that the contract was appropriately priced and expressed its willingness to absorb all unrecovered costs. It therefore felt that AT&T's intervention was unnecessary and should be denied and, in the alternative, the Commission should grant conditional approval for the contract,

subject to South Central Bell's willingness to absorb unrecovered costs. The Commission subsequently granted AT&T's motion for intervention. By Order dated July 10, 1990, the Commission also granted South Central Bell's motion for conditional approval; however, the terms of the conditional approval were modified to require South Central Bell to absorb any unrecovered costs and any intrastate revenue deficiency. South Central Bell was allowed 10 days to either accept or reject the terms of the conditional approval. South Central Bell and AT&T both filed for rehearing of the Order.

In its motion, South Central Bell objected to the Commission's requirements and reiterated its willingness to absorb any amounts below cost and that, in any event, the amount should not exceed the difference between the contract rate and the contribution it would have received for providing PBX¹ trunks to Alliant. AT&T requested the Commission grant AT&T's petition for rehearing and, upon such rehearing, deny approval of the contract pending investigation of the costs associated with the provision of ESSX service.

The Commission denied both motions, noting that the terms of the conditional approval were reasonable and there were substantial issues in this proceeding such that approval should be granted only under those terms. The Commission expressed its opinion that its conditions were reasonable because in the event the contract was rejected, it would have resulted in an imputed

¹ Private Branch Exchange.

level of revenues equivalent to that which would have been obtained if South Central Bell had offered the service under its ESSX tariff. As South Central Bell had the option to offer service under its ESSX tariff without requiring specific Commission approval and in view of the potential competitive disadvantages that could occur from the delays imposed by this proceeding, South Central Bell was permitted to provide the service contingent upon South Central Bell's willingness to accept the terms contained in the July 10, 1990 Order. South Central Bell subsequently notified the Commission that it would not accept conditional approval of the contract.

A hearing was held on September 17, 1990. Prefiled testimony was provided by James D. Tipton on behalf of South Central Bell and L. G. Sather on behalf of AT&T. On September 14, 1990, South Central Bell filed a motion to strike AT&T's testimony contending that the testimony did not address the reasonableness of the proposed contract, but rather focussed on the ESSX tariff itself, which was not an issue in this proceeding. At the hearing, the Commission denied the motion to strike, but would instead view the testimony only in the context of its relevancy to this proceeding.

Position of the Parties

In its brief filed September 27, 1990, South Central Bell contends that the sole issue before the Commission is whether the Alliant contract is priced in compliance with Section A12.13.6.H of the ESSX tariff, which states:

The Company reserves the option to provide Digital ESSX Service at any size and distance from the serving central office under a Special Contract Arrangement under the

rules and regulations in Section A5. of this Tariff if, in the Company's judgment, the cost of providing that service is significantly different from the cost developed to support the rates in this Tariff section. Commission approval is required before a Special Contract Arrangement accepted by the customer can be placed into service.

South Central Bell acknowledges that there is an intrastate revenue accounting shortfall resulting from the contract, but believes the contract should be approved as it recovers combined interstate and intrastate costs. South Central Bell notes that the Federal Communications Commission ("FCC") requires an end-user line charge of \$5.68 to be assessed to each ESSX line, but contends that the jurisdictional accounting of this charge should not prevent South Central Bell from acting prudently in a competitive market. South Central Bell feels that additional sources of intrastate revenues which may result from the proposed contract should be considered, such as revenues from Alliant's intraLATA toll services and the possibility of providing some of Alliant's administrative data services. South Central Bell further contends that ESSX service would provide a marketing presence with Alliant and is a natural platform for offering future network services.

AT&T's position is that the scope of the Commission's review in this case is not limited to just whether the cost of providing ESSX service to Alliant is significantly different from the cost developed to support the tariffed rates for ESSX service generally. AT&T feels that the scope of the Commission's review extends to and includes the more encompassing issue of whether the proposed contract is in the public interest, which AT&T contends

it is not.² AT&T feels that the packaging or bundling of monopoly and competitive services results in unreasonable rate discrimination regarding the monopoly service components. AT&T also notes that the allocation of the end-user charge to the federal jurisdiction results in the Alliant contract being priced below cost on an intrastate basis. For these reasons, AT&T feels that approval of the proposed contract should be denied.

Discussion

The Commission is aware of the competitive nature of ESSX services and recognizes the difficulties faced by South Central Bell in competing with PBX vendors. Nevertheless, for rate-making purposes, the Commission is limited to a review of intrastate revenues and intrastate expenses. The Commission cannot allow an intrastate contract to be priced below its intrastate costs and then require South Central Bell's monopoly services customers to contribute the difference. Therefore, the Commission will reject the proposed special contract as filed, and puts South Central Bell on notice that any future ESSX filings should be priced to recover all intrastate costs. In making this decision, the Commission has considered the estimates of additional intrastate contribution which may result from the proposed special contract. However, even if these estimates are considered, the contract still results in an intrastate revenue deficiency. Furthermore, the accuracy of these estimates is questionable as they were

² Brief of AT&T, page 1.

calculated using rates which considerably exceed those of South Central Bell's potential competitor.

The Commission, being otherwise sufficiently advised, HEREBY ORDERS that the proposed special contract between South Central Bell and Alliant for the provision of digital ESSX service be and hereby is rejected.

Done at Frankfort, Kentucky, this 6th day of November, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director